

1 **LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS**
2 **ODAWA GAMING ENTERPRISE MANAGEMENT, INC. CORPORATE CHARTER**
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5 This Corporation is hereby organized, incorporated and granted its corporate powers,
6 privileges and immunities under the laws of the Little Traverse Bay Bands of Odawa Indians,
7 (Tribe) as a Tribally chartered corporation for the purposes set forth in Article II. The Little
8 Traverse Bay Bands of Odawa Tribal Council grants this corporate charter pursuant to its
9 inherent sovereign authority through enactment of Odawa Gaming Enterprise Management,
10 Statute, WOS _____ and pursuant to Part Two of Comprehensive Business Codes of
11 the Little Traverse Bay Bands of Odawa Indians, WOTC 12.114, *et seq.* This Charter creates a
12 Tribal Corporation as defined at WOTC 12.116(B) as a corporation wholly owned by the Little
13 Traverse Bay Bands of Odawa Indians for the benefit of the Tribe and its members, and its
14 ownership is inalienable.
15
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17 **ARTICLE I: NAME and PRINCIPAL PLACE OF BUSINESS**
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19 By this Charter, the Tribe creates the Odawa Gaming Enterprise Management, Inc. (the
20 Corporation). The Corporation shall have its principal place of business at the Odawa Casino
21 Resort, 1760 Lears Road, Petoskey, Michigan, or at such other location within the Tribe's
22 territories that the Board of Directors of the Corporation shall determine.
23
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25 **ARTICLE II: OWNERSHIP**
26

27 The Corporation shall be 100% owned and controlled by the Little Traverse Bay Bands
28 of Odawa Indians, (Tribe).
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31 **ARTICLE III: PURPOSES**
32

33 The Corporation is organized for the purpose of developing, constructing, owning,
34 leasing, operating, managing, maintaining, promoting and financing the Odawa Casino Resort
35 and engaging in any other lawful activity, subject to any limitations imposed by the Odawa
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1 Gaming Enterprise Management Statute, any contract, indenture or other instrument by which
2 the Corporation is bound. The Tribe intends that the Corporation shall assume all obligations,
3 responsibilities and duties of the Tribe under gaming law existing at the date of enactment of this
4 Charter, with the sole exception of the power of gaming regulation, gaming licensing and
5 enforcement of applicable law, which powers are reserved to the Tribe.
6
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8 **ARTICLE IV: DEFINITIONS** 9

10 For purposes of this Charter the following terms shall have the meanings respectively specified:
11

12 **a.** “Board of Directors” shall mean the Board of Directors of the Corporation created by
13 this Charter.
14

15 **b.** “Compact” shall mean the “Tribal-State Gaming Compact between The Little Traverse
16 Bay Bands of Odawa Indians and the State of Michigan.
17

18 **c.** “Corporation” shall mean the Odawa Gaming Enterprise Management, Inc., created by
19 this Charter.
20

21 **d.** “Felony” shall mean only those offenses set forth under Tribal Statute or the United
22 States Indian Major Crimes Act (18 U.S.C. § 1153).
23

24 **e.** “*Gaming Commercial Enterprises*” means any existing and future establishment of the
25 Tribe (i) upon which Gaming takes place, (ii) which is authorized and licensed under applicable
26 law, and (iii) which the Council designates for ownership, lease, development, construction,
27 operation or management by the Company, including without limitation any Class III Gaming
28 facilities established in accordance with the Compact including the Odawa Casino Resort and
29 ancillary enterprises and activities and other tribally owned enterprises or businesses.
30

31 **f.** “*Gaming Regulatory Commission*” means the Little Traverse Bay Bands of Odawa
32 Indians Gaming Regulatory Commission established pursuant to Waganakising Odawak Statute
33 2005-06, May 15, 2005.
34

- 1 **g.** “*Indian Gaming Regulatory Act*” means 25 U.S.C. §§ 2701-2721.
- 2
- 3 **h.** “Obligations” shall mean any notes, bonds, interim certificates, debentures or other
- 4 evidences of indebtedness issued by the Corporation under this Charter.
- 5
- 6 **i.** “Obligee” shall mean any holder of an Obligation, and any agent or trustee for any
- 7 holder of any Obligation.
- 8
- 9 **j.** “*Odawa Casino Resort*” means the gaming enterprise, including related hotel and
- 10 restaurant services, of the Tribe located in Petoskey, Michigan, wherein the Tribe operates Class
- 11 II and Class III gaming to generate governmental revenue for the Tribe pursuant to the Indian
- 12 Gaming Regulatory Act.
- 13
- 14 **k.** “*Territorial Jurisdiction of the Little Traverse Bay Bands of Odawa Indians*” means
- 15 “*areas referenced in Public Law 103-324, 25 USC Section 1300k-2(b)(2)(A) as the boundaries*
- 16 *of the reservations for the Little Traverse Bay Bands as set out in Article I, paragraphs ‘third*
- 17 *and fourth’ of the Treaty of 1855, 11 Stat.621.*” Little Traverse Bay Bands Constitution, Article
- 18 V(A)(1)(a).
- 19
- 20 **l.** “Tribe” or “LTBB” means the Little Traverse Bay Bands of Odawa Indians.
- 21
- 22 **m.** “*Tribal Constitution*” means the Little Traverse Bay Bands of Odawa Indians
- 23 Constitution as adopted by its membership on February 2, 2005.
- 24
- 25 **n.** “*Tribe Council*” means the elected body of nine Tribal members of Little Traverse Bay
- 26 Bands of Odawa Indians with duties found in the Tribal Constitution Article VII. “Tribal
- 27 Council”.
- 28
- 29

30 **ARTICLE V: RELATION TO TRIBE**

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32 The Corporation shall constitute a governmental instrumentality of the Tribe, having

33 autonomous existence separate and distinct from the Tribe.

a. For purposes of civil jurisdiction, regulatory jurisdiction and taxation, the Corporation shall be deemed a subordinate arm of the Tribe and shall be entitled to all of the privileges and immunities of the Tribe.

b. The Corporation shall have no power to exercise any regulatory or legislative power; the Tribe reserves from the Corporation all regulatory, legislative and other governmental power, including, but not limited to the power to grant, issue, revoke, suspend or deny licenses, conduct background investigations, and enact legislation regulating Gaming on the territories of the Tribe.

ARTICLE VI: ASSETS

The Corporation shall have only those assets of the Tribe formally assigned or leased to it by the Tribal Council, together with whatever assets it acquires by other means as provided in this Charter. No activity of the Corporation, or any indebtedness incurred by it shall encumber, implicate or in any way involve assets of the Tribe or another Tribal Entity not assigned or leased in writing to the Corporation.

ARTICLE VII: BOARD OF DIRECTORS

The management of the affairs of the Corporation shall be vested in a Board of Directors, except as otherwise provided in this Charter or in the bylaws of the Corporation. The Board of Directors shall be comprised of at least three (3) and no more than five (5) members appointed by a majority vote of the Tribal Council. The Tribal Council sets the following minimal requirements for appointment:

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2 **ARTICLE VIII: CORPORATE POWERS**
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4 The Corporation shall have the power to:
5

- 6 **a.** To purchase, receive, solicit, take by gift, devise, or bequest, or otherwise acquire,
7 own, hold, improve, use, and otherwise deal in personal property of every description, or
8 any interest therein, wherever situated.
9
- 10 **b.** To lease real property and improvements from the Little Traverse Bay Bands of
11 Odawa Indians, with prior approval of the Tribal Council.
12
- 13 **c.** To make contracts or agreements, incur liabilities and borrow money from any
14 source, upon such terms and rates and interests as the Corporation may determine; to
15 issue notes, bonds and other obligations and secure any of its obligations by specifically
16 mortgaging, pledging or assigning its corporate property or income as collateral for its
17 corporate debts or liabilities, with prior approval of the Tribal Council.
18
- 19 **d.** To lend or invest money for its corporate purposes.
20
- 21 **e.** To conduct its affairs, carry on its operations, and exercise the powers granted
22 under this Corporate Charter in any state, territory, district, or possession of the United
23 States or in any foreign country.
24
- 25 **f.** To elect or appoint officers and agents of the Corporation and define their duties
26 and fix their compensation.
27
- 28 **g.** To sue and be sued but only in accordance with Article IX of this Charter.
29
- 30 **h.** To have and exercise all powers incidental, necessary or convenient to the
31 conduct of corporate business, not inconsistent with applicable law, and to engage in any
32 and all activities which will directly or indirectly carry out the purposes of the
33 Corporation as set forth in Article III.

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3 **ARTICLE IX: SOVEREIGN IMMUNITY**
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5 **a.** The Corporation is a distinct legal entity from the Little Traverse Bay Bands of
6 Odawa Indians with its own assets. While the Tribe is the sole owner, the Corporation's
7 corporate activities, transactions, obligations, liabilities and property are not those of the
8 Tribe. Nothing in this charter waives or permits the Corporation to waive the Tribe's
9 sovereign immunity from suit.

10
11 **b.** The Corporation may effectuate limited waivers of its sovereign immunity for
12 conducting day-to-day business if the waivers are made in accordance with either of the
13 following methods:
14

15 **1.** Tribal Council may expressly authorize a limited waiver of sovereign
16 immunity on a case-by-case basis through a specific resolution.
17

18 **2.** The Corporation may waive its sovereign immunity pursuant to
19 transactions or agreements that the Corporation may execute in the course of its
20 ordinary business affairs.
21

22 **3.** Any waivers of sovereign immunity made pursuant to (1) or (2) above
23 shall only expose the assets owned or held by the Corporation and shall not
24 subject other Tribal assets to liability. Waivers of sovereign immunity are
25 disfavored and shall be granted only when necessary to secure a substantial
26 advantage or benefit to the Corporation. Waivers of sovereign immunity shall not
27 be general but shall be specific and limited as to duration, grantee, transaction,
28 property or funds, if any, of the Corporation subject thereto. Neither the power to
29 sue and be sued provided in this Charter, nor any express waiver of sovereign
30 immunity by resolution of the Corporation's Board of Directors or the Tribal
31 Council shall be deemed a consent to the levy of any judgment, lien or attachment
32 upon any property of the Corporation other than property specifically pledged or
33 assigned, or any property of the Tribe, or a consent to suit with respect to any land
34 within the exterior boundaries of the Reservation or consent to the attachment or

1 encumbrance of any such land.

2
3 **c.** Sovereign Immunity of the Tribe. All inherent sovereign rights of the Tribe as a
4 federally recognized Indian tribe with respect to the existence of the Corporation are
5 hereby expressly reserved, including sovereign immunity from suit in any state, federal or
6 tribal court. Nothing in this Charter shall be deemed or construed to be a waiver of
7 sovereign immunity from suit of the Tribe or to be a consent of the Tribe to the
8 jurisdiction of the United States or of any state with regard to the business affairs of the
9 Corporation or the Tribe or any cause of action, case or controversy.

10 11 12 **ARTICLE X: MANAGEMENT OF CORPORATION**

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14 The Board of Directors is empowered and directed to adopt bylaws consistent with this
15 Charter and all applicable law to set out management of the Corporation and its activities.

16 17 18 **ARTICLE XI: INSULATION FROM SHIFTS IN TRIBAL POLITICS**

19
20 **a.** Member(s) of the Board of Directors appointed under Article VII shall serve a
21 three (3) or five (5) year term. However, a Board member can only be involuntarily
22 removed during their term for one or more of the following reasons:

- 23
24 **1.** The Board member(s) intentionally or negligently took action to harm the
25 interests of the Corporation or Tribe;
26
27 **2.** The Board member(s) is convicted on any crime that could harm the
28 credibility or function of the Corporation;
29
30 **3.** The Board member(s) is convicted of a felony;
31
32 **4.** The Board member(s) failed to act in good faith, or with the care that an
33 ordinarily prudent person in a like position would exercise under similar

1 circumstances, or in a manner he or she reasonably believes to be in the best
2 interests of the Corporation.
3

4 **b.** Removal of a Board member(s) for one or more of the reasons set out in
5 subsection (a) above can only be accomplished by an affirmative vote of three-fourths
6 ($\frac{3}{4}$) or more of the Tribal Council members eligible to vote.
7

8 **c.** Any changes to this charter by Tribal Council shall only be adopted upon the
9 affirmative vote of three-fourths ($\frac{3}{4}$) or more of those Tribal Council members eligible
10 to vote.
11

12 **ARTICLE XII: ATTORNEYS**

13

14
15 The Corporation may utilize services of an attorney or attorney(s) as provided for by the
16 Odawa Gaming Enterprise Management, Statute, or such other attorneys as approved by Tribal
17 Council.
18

19 **ARTICLE XIII: DURATION and DISSOLUTION**

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21
22 The Corporation shall continue in perpetuity unless and until dissolved upon adoption of
23 a resolution requiring dissolution by an affirmative vote of three-fourths ($\frac{3}{4}$) or more of the
24 Tribal Council members eligible to vote. No such resolution shall take effect before the
25 expiration of 90 days from the date of adoption. Upon dissolution of this Corporation, its assets
26 shall be distributed at the direction of the Tribal Council, or its designee, as follows:
27

28 **(a)** Any property held upon an express condition requiring its return, transfer or other
29 disposition shall be distributed accordingly;
30

31 **(b)** Any property or assets required to be distributed or transferred in any manner
32 according to federal law shall be distributed or transferred accordingly;
33

34 **(c)** Claims of creditors of the Corporation approved by the Tribal Council shall be

1 paid accordingly from the assets or funds of the Corporation; and

2
3 (d) Remaining assets shall be transferred to another Corporation, to the Tribe, or
4 distributed or transferred as the Tribal Council directs.

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7 **ARTICLE XIV: REGISTERED AGENT**

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9 The Registered Agent of the Corporation is:

10
11 Name: Legislative Office Manager
12 Address: Little Traverse Bay Bands Odawa Indians
13 7500 Odawa Circle
14 Harbor Springs, MI 49740
15

16 Provided, the Board of Directors may change the Registered Agent by taking official
17 action and notifying Tribal Council and the Department of Commerce of the change.
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20 **ARTICLE XV: DISTRIBUTIONS TO TRIBAL GOVERNMENT**

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22 The Board of Directors shall distribute funds in accordance with any bond agreements or
23 other such agreements and shall distribute any additional funds annually with fair and reasonable
24 profits to the Tribal government beyond the amount required to maintain adequate funds in the
25 Corporation for debt service, and maintenance and growth of business operations. The
26 Corporation shall have no power to issue any shares of stocks to declare and pay any dividends.
27

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29 **ARTICLE XVI: REPORTING AND AUDIT REQUIREMENTS**

30
31 The Corporation shall provide reports to Tribal Council as required by Odawa Gaming
32 Enterprise Management Statute.
33

1 The Corporation shall obtain an annual financial audit by an independent public
2 accountant, the results of which will be provided to Tribal Council within 120 days of the end of
3 its fiscal year.
4

5 The Corporation shall keep correct and complete books and records of account and shall
6 keep minutes of its meetings. All books and records of the Corporation, except for sensitive
7 proprietary information, may be inspected by any LTBB citizen at the location where the records
8 are normally kept at any reasonable time.
9

10 11 **ARTICLE XVII. POLITICAL ACTIVITY** 12

13 The Corporation, and its officer, agents and employees when acting on behalf of the
14 Corporation, shall not contribute to or otherwise support or assist any political party or candidate
15 for Tribal or any other public office.
16

17 18 *Certificate of Adoption* 19

20 As Tribal Secretary and Legislative Leader, we certify that this Charter was formally
21 adopted by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians on
22 _____.

23
24 Date: _____

25
26 Date: _____
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